

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DANNY TEVAGA,

Petitioner,

vs.

JOE MCGRATH, Warden,

Respondent.

No. C 04-2452 JSW (PR)

**ORDER REGARDING PETITIONER'S
REQUEST FOR A CERTIFICATE OF
APPEALABILITY AND
INSTRUCTIONS TO CLERK**

(Docket No. 19)

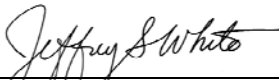
Petitioner, a prisoner of the State of California, has filed a habeas corpus petition pursuant to 28 U.S.C. § 2254. On August 4, 2005, the Court denied that aspect of Petitioner's May 4, 2005 letter to the Court which requested a certificate of appealability (docket no. 18). Petitioner has since then sought clarification of the status of his case based on the Court's denial (docket no. 19). Ordinarily, the Court will provide a docket sheet when a Petitioner seeks to check the status of a case and in the future Petitioner may request a docket sheet to determine the status.

A certificate of appealability is necessary to establish jurisdiction in the appellate courts after a final decision on the merits of a state habeas petition has been rendered by a federal district court. *Miller-El v. Cockrell*, 537 U. S. 322, 336 (2003). As the Court has not entered a final order or judgment pursuant to 28 U.S.C. § 2253(c), Petitioner's request for a certificate of appealability was premature. At this time, the petition is deemed submitted, and the Court will issue an order on the merits in the future. As Petitioner has informed the Court that he does not plan to file a traverse, no action is

1 required of Petitioner at this time. The Clerk is directed to send Petitioner a copy of the
2 Court's docket sheet with this order.

3 IT IS SO ORDERED.

4 DATED: April 10, 2006

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6 JEFFREY S. WHITE
7 United States District Judge
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